THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition Nos.11400 of 2001, 15932 of 2002

and 25281 of 2003

Dated: 21.03.2006

W.P. No. 11400 of 2001

Between:

B. Narasaiah, S/o Gangaram, Ex. Driver (E. 306970), A.P.S.R.T.C.,

resident of Chintakuntavada, Jagatial Post, Karimnagar District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Jagatial Depot, Karimnagar

District and another.

.....RESPONDENTS

W.P. No. 15932 of 2002

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Between:

B. Veeresham (E.No.318148), S/o Ramaiah, Conductor, APSRTC, Huzurabad Depot, Karimnagar District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Karimnagar-II Depot,

Karimnagar and another.

.....RESPONDENTS

W.P. No. 25281 of 2003

Between:

T. Kishore Kumar, S/o late T. Narayana, Ex.Conductor, E.No.850163, resident of Sirpur Taluk, Adilabad District.

..... PETITIONER

AND

The Chairman, The Industrial Tribunal-Cum-Labour Court,

Godavarikhani, Karimnagar District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition Nos.11400 of 2001, 15932 of 2002

and 25281 of 2003

Common Order:

Since the facts involved in all the writ petitions are similar in nature, they are being disposed of together.

The awards dated 24.10.2000, 10.08.2001 and 11.09.2003, passed by the Labour Court, Godavarikhani, Karimnagar District, in I.D. Nos.82 of 1997, 7 of 2000 and 18 of 2003 respectively, are called in question in these writ petitions.

When the matter is taken up for hearing, it is submitted by the learned counsel for the

petitioners that despite the petitioners pleading that the domestic enquiry was conducted defectively, the Labour Court, without affording any opportunity to the petitioners to lead evidence, either on the question of validity of domestic enquiry or on the question of quantum of punishment, and without deciding the issue of validity of domestic enquiry as a preliminary issue, passed the impugned orders, which are wholly illegal, arbitrary and in violation of principles of natural justice. He, thus, prays to set aside the impugned awards and remit the matters to the Labour Court for fresh disposal. In support of the said contention, he placed reliance on the judgment of the apex Court reported in "***Cooper Engineering Ltd., v. P.P. Mundhe***[1]".

Learned Standing Counsel for the respondent-Corporation also fairly conceded that the Labour Court has not decided the issue as to whether the domestic enquiry has violated the principles of natural justice as a preliminary issue and he agreed to remit the matters to the Labour Court for fresh disposal.

In ***Cooper Engineering Limited's Case*** (1 supra), the Supreme Court observed thus.

> "We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue……."

In view of the law laid down by the Supreme Court in ***Cooper Engineering Limited's Case*** (1 supra), and in view of the agreed stand taken by both the counsel, the impugned awards are liable to be set aside and the matters be remitted to the Labour Court for fresh disposal from the stage of deciding the validity of the disciplinary enquiry report.

Accordingly, the writ petitions are allowed and the impugned awards are set aside. The matters are remitted to the Labour Court for fresh adjudication. No costs.

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N.V. RAMANA, J.

Date: 21.03.2006

Nsr/Ksr